

REMARKS

Claims 1-5, 8 and 11 are pending in the above-identified application and have been rejected by the Examiner. Claims 6, 7, 9 and 10 have been cancelled hereinabove. Claims 1, 5 and 8 have been amended herein. Applicant respectfully traverses each ground of rejection and requests reconsideration and further examination of the application under 37 CFR § 1.111. Applicant responds to each ground of rejection and objection as follows.

A. Claims 1-4 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Marty et al. or Yeh et al. and claims 5-11 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Marty et al. or Yeh et al. alone or in view of Booth.

Claims 6, 7, 9 and 10 have been cancelled hereinabove. Therefore, the rejection of those claims is moot.

Marty et al. discloses a pressure balanced mixing valve. Yeh et al. discloses a multi-handled pressure balancer system having major components including a flow diverter for final discharge to either a shower or a tub. (See Yeh et al. col 2, lines 29-34.) Booth discloses a shower with a flexible line.

Applicant's independent claim 1, as amended, relates to a bathtub plumbing system having an anti-scald hand-held shower system connected without the need of a diverter plumbing system and requires secondary hot and cold water pipes fluidically connected to the respective primary hot and cold water pipes. Claim 1 further requires "a pressure balanced valve fluidically connected to the secondary hot water pipe and fluidically connected to the secondary cold water pipe...wherein the hand held shower

may be actuated independently of the hot and cold water control valves; and wherein the hand held shower outputs water of a predetermined pressure.” None of the above-cited references disclose or suggest a bathtub plumbing system for connecting a hand held shower without using a diverter to a pressure balanced valve as required by Applicant’s independent claim 1. In fact, Yeh et al. teaches that a diverter is one of the major components of its system. (Id.)

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references must teach or suggest all of the claim limitations. MPEP § 706.02(j). Neither of the above references teach or suggest the use of a pressure balanced valve to supply water to a hand held shower attachment to a bathtub. Further, none of the above references teach or suggest connecting a shower to a bathtub without the use of a diverter, and in fact Yeh et al. teaches away from such a system by identifying the diverter as a major component of its system. Therefore, any combination of the references of record does not disclose or suggest the bathtub plumbing system of claim 1. Moreover, there is no suggestion or motivation in the cited art to combine the references. Therefore, a *prima facie* case of obviousness has not been made. The cited references do not, alone or in combination, teach or suggest the combination of elements of Applicant’s claim 1. It is therefore respectfully submitted that Applicant’s claim 1 is allowable over the above-cited art. It is respectfully requested that the above rejection be withdrawn.

Claims 2-4 depend from claim 1 and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that claims 2-4 are allowable over the references of record for at least the same reasons as set forth above regarding claim 1.

Applicant's independent claim 5 relates to a bathtub-mounted hand held shower system controlled by a single valve without the need of a diverter and requires "a pressure balanced valve connected to the bathtub and connected in hydraulic communication with the respective hot and cold water sources." Claim 5 also requires a "hand held shower head to the pressure balanced valve...wherein the hand held shower head may be actuated independently of the hot and cold spigot valves to actuate a flow of water characterized by a substantially predetermined temperature and pressure."

Again, none of the above-cited references disclose or suggest a pressure balanced valve connected to the bathtub and connected in hydraulic communication with the respective hot and cold water sources without the use of a diverter as required by applicant's claim 5. Further, none of the above-cited references disclose or suggest that the hand held shower head may be actuated independently of the hot and cold spigot valves to actuate a flow of water of characterized by a substantially predetermined temperature and pressure as required by Applicant's independent claim 5.

As noted above, to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references must teach or suggest all of the claim limitations. MPEP § 706.02(j). None of the references of record teach or suggest the use of a pressure balanced valve connected to a bathtub plumbing system absent a diverter to provide water

to a hand held shower independently of the hot and cold spigot valve controls. Therefore, any combination of the references of record does not disclose or suggest the system of claim 5. Moreover, there is no suggestion or motivation in the cited art to combine the references. Therefore, a *prima facie* case of obviousness has not been made. The cited references do not, alone or in combination, teach or suggest the combination of elements of Applicant's claim 5. It is therefore respectfully submitted that Applicant's claim 5 is allowable over the above-cited art. It is respectfully requested that the above rejection be withdrawn.

Likewise, claim 8 is a method claim directed at controlling the water temperature and pressure output from a hand held shower head, and require the elements of "hydraulically connecting a hot water source and a cold water source to respective pressure balanced valve inputs" and "controlledly opening the pressure balanced valve to achieve a water output from the hand held shower characterized by a predetermined pressure and temperature," respectively. None of the references of record, either alone or in combination, disclose, teach or suggest the use of a pressure balanced valve to directly connect the hand held shower to the hot and cold water sources instead of connecting the shower through a diverter to the hot and cold valves used by the tub faucet or spigot. Thus, a *prima facie* case of obviousness has not been made. The cited references do not, alone or in combination, teach or suggest the combination of elements of Applicant's claim 8. It is therefore respectfully submitted that Applicant's claim 8 is allowable over the above-cited art. It is respectfully requested that the above rejection be withdrawn.

Claim 11 depends from claim 8 and therefore includes all of the limitations of claim 8. It is therefore respectfully submitted that claim 11 is allowable over the references of record for at least the same reasons as set forth above regarding claim 8.

CONCLUSION

Applicant has amended claims 1, 5 and 8 and cancelled claims 6, 7, 9 and 10.

Applicant respectfully requests a Notice of Allowance for pending claims 1-5, 8 and 11.

The undersigned welcomes a telephonic interview with the Examiner, if the Examiner believes that such an interview would facilitate review of this Amendment Response.

Should any fees be deemed required, please charge such fees to Deposit Account No. 50-0410, but not to include any payment of issue fees.

Respectfully submitted,

By

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